

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 560**

---

**Introduced by Senator Anderson**

February 22, 2013

---

An act ~~relating to disaster relief~~ to add Sections 6357.9, 17137, and 24311 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 560, as amended, Anderson. Disaster ~~relief~~: relief: sales and use tax: exemption: income taxes: gross income: exclusion.

Existing sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Those laws provide various exemptions from those taxes.

This bill would exempt from those taxes, on and after January 1, 2014, the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property purchased during a disaster period for use by a qualified person to be used primarily for the performance of disaster- or emergency-related work in this state, as provided. The bill would require the purchaser to furnish the retailer with an exemption certificate, as specified.

The Personal Income Tax Law and the Corporation Tax Law impose taxes on taxpayers measured by the amount of the taxpayer's taxable income for the taxable year, but exclude certain items of income from the computation of tax.

*This bill would, under both laws, for taxable years beginning on and after January 1, 2014, exclude from income amounts received by a qualified person, as defined, for the performance of disaster- or emergency-related work in this state that is performed during the disaster period, as provided.*

*The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Amendments to state sales and use taxes are incorporated into these laws.*

*Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.*

*This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse any local agencies for sales and use tax revenues lost by them pursuant to this bill.*

*This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.*

~~The California Emergency Services Act specifies those events, including conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as fire, flood, storm, or earthquake, constituting a state emergency for purposes of the act and provides for specified activities in preparation or response to those events.~~

~~This bill would state the Legislature's intent to enact legislation that would facilitate rapid response and aid by out-of-state businesses to state declared disasters by providing that an out-of-state business that conducts operations within the state for purposes of performing work or services related to a declared state disaster or emergency should not be considered to have established a level of presence that would require that business or its out-of-state employees to be subject to any state and local licensing or registration requirements or to register, file, and remit state or local taxes and fees, such as state corporation taxes or personal income taxes, unemployment insurance, sales and use taxes on equipment used for performing the work or service, or state or local occupational licensing fees.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) During times of storm, flood, fire, earthquake, hurricane, or  
4 other disaster or emergency, many companies bring in resources  
5 and personnel from other states throughout the United States on a  
6 temporary basis to expedite the often enormous and overwhelming  
7 task of cleaning up, restoring and repairing damaged buildings,  
8 equipment, and property, or even deploying or building new  
9 replacement facilities in the state.

10 (b) This may involve the need for out-of-state companies,  
11 including out-of-state affiliates of companies based in the state to  
12 bring in resources, property or personnel that previously have had  
13 no connection to the state, to perform activity in the state including,  
14 but not limited to, repairing, renovating, installing, building,  
15 rendering services, or other business activities and for which  
16 personnel may be located in the state for extended periods of time  
17 to perform such activities.

18 (c) During such time of operating in the state on a temporary  
19 basis solely for purposes of helping the state recover from the  
20 disaster or emergency, these companies and individual employees  
21 should not be burdened by any requirements for ~~business and~~  
22 ~~employee income~~ taxes as a result of such activities in the state  
23 for a temporary period.

24 (d) The state's nexus ~~and residency~~ thresholds are intended for  
25 businesses ~~and individuals~~ in the state as part of the conduct of  
26 regular business operations ~~or who intend to reside in the state~~ and  
27 should not be directed at companies ~~and individuals~~ coming into  
28 the state on a temporary basis to provide help and assistance in  
29 response to a declared state disaster or emergency.

30 (e) To ensure that companies may focus on quick response to  
31 the needs of the state and its citizens during a declared state disaster  
32 or emergency it is appropriate for the Legislature to deem that such  
33 activity for a reasonable period of time during and after the disaster  
34 or emergency for repairing and restoration of the often devastating  
35 damage to property and infrastructure in the state shall not establish

1 ~~presence, residency, nor doing business in the state nor any other~~  
2 ~~criteria for purposes of state and local income taxes, licensing, and~~  
3 ~~regulatory requirements.~~

4 SEC. 2. Section 6357.9 is added to the Revenue and Taxation  
5 Code, to read:

6 6357.9. (a) On and after January 1, 2014, there are exempted  
7 from the taxes imposed by this part the gross receipts from the  
8 sale of, and the storage, use, or other consumption of, tangible  
9 personal property purchased during a disaster period for use by  
10 a qualified person to be used primarily for the performance of  
11 disaster- or emergency-related work in this state.

12 (b) For purposes of this section, all of the following shall apply:

13 (1) “Declared state disaster or emergency” means a disaster  
14 or emergency event for which the Governor has proclaimed a state  
15 of emergency or a major disaster or emergency for which the  
16 President of the United States has declared to exist in this state.

17 (2) “Disaster- or emergency-related work” means repairing,  
18 renovating, installing, building, or rendering services or other  
19 business activities that relate to infrastructure that has been  
20 damaged, impaired, or destroyed as a result of a declared state  
21 disaster or emergency.

22 (3) “Disaster period” means the period of time that begins no  
23 later than 10 days following the Governor’s proclamation of a  
24 state of emergency or the President’s declaration of a major  
25 disaster or emergency in this state, whichever occurs first, and  
26 that extends for a period of 60 calendar days following the  
27 termination of the declared disaster or emergency as proclaimed  
28 by the Governor or by concurrent resolution by the Legislature  
29 pursuant to Section 8629 or the President of the United States,  
30 whichever occurs first.

31 (4) “Infrastructure” means property and equipment owned or  
32 used by communication networks, gas and electric distribution  
33 systems, water pipelines, and public roads and bridges, and related  
34 support facilities that service multiple customers or citizens,  
35 including, but not limited to, real and personal property, including  
36 buildings, offices, power lines, poles, pipes, structures, and  
37 equipment.

38 (5) “Local agency” means a local agency as defined in Section  
39 8680.2 of the Government Code.

40 (6) “Primarily” means 50 percent or more of the time.

1     (7) “Qualified person” means a person, as defined in Section  
2     6005, but excluding an individual, that meets all of the following:

3     (A) Prior to the commencement date of the declared state  
4     disaster or emergency, as specified in the Governor’s proclamation  
5     of a state of emergency or the President’s declaration of a major  
6     disaster or emergency in this state, was not doing business in this  
7     state as defined in Section 23101.

8     (B) Is doing business in this state as defined in Section 23101  
9     after the commencement date of the declared state disaster or  
10    emergency, as specified in the Governor’s proclamation of a state  
11    of emergency or the President’s declaration of a major disaster  
12    or emergency in this state, upon the request of a registered business  
13    or by a state agency or a local agency, for the purpose of  
14    performing of disaster- or emergency-related work.

15    (8) “Registered business” means a business entity that is  
16    registered to do business in this state prior to the commencement  
17    date of the declared state disaster or emergency, as specified in  
18    the Governor’s proclamation of a state of emergency or the  
19    President’s declaration of a major disaster or emergency in this  
20    state.

21    (9) “State agency” means a state agency as defined in Section  
22    8680.8 of the Government Code.

23    (c) An exemption shall not be allowed under this section unless  
24    the purchaser furnishes the retailer with an exemption certificate,  
25    completed in accordance with any instructions or regulations as  
26    the board may prescribe, and the retailer retains the exemption  
27    certificate in its records and furnishes the exemption certificate  
28    to the board upon request. The exemption certificate shall contain  
29    the sales price of the qualified tangible personal property.

30    SEC. 3. Section 17137 is added to the Revenue and Taxation  
31    Code, to read:

32    17137. (a) For taxable years beginning on and after January  
33    1, 2014, gross income shall not include any amount received by a  
34    qualified person for the performance of disaster- or  
35    emergency-related work in this state that is performed during the  
36    disaster period.

37    (b) For purposes of this section, all of the following shall apply:

38    (1) “Declared state disaster or emergency” means a disaster  
39    or emergency event for which the Governor has proclaimed a state

1 of emergency or a major disaster or emergency for which the  
2 President of the United States has declared to exist in this state.

3 (2) “Disaster- or emergency-related work” means repairing,  
4 renovating, installing, building, or rendering services or other  
5 business activities that relate to infrastructure that has been  
6 damaged, impaired, or destroyed as a result of a declared state  
7 disaster or emergency.

8 (3) “Disaster period” means the period of time that begins no  
9 later than 10 days following the Governor’s proclamation of a  
10 state of emergency or the President’s declaration of a major  
11 disaster or emergency in this state, whichever occurs first, and  
12 that extends for a period of 60 calendar days following the  
13 termination of the declared disaster or emergency as proclaimed  
14 by the Governor or by concurrent resolution by the Legislature  
15 pursuant to Section 8629 or the President of the United States,  
16 whichever occurs first.

17 (4) “Infrastructure” means property and equipment owned or  
18 used by communication networks, gas and electric distribution  
19 systems, water pipelines, and public roads and bridges, and related  
20 support facilities that service multiple customers or citizens,  
21 including, but not limited to, real and personal property, including  
22 buildings, offices, power lines, poles, pipes, structures, and  
23 equipment.

24 (5) “Local agency” means a local agency as defined in Section  
25 8680.2 of the Government Code.

26 (6) “Qualified person” means a limited partnership, limited  
27 liability partnership, and limited liability company that meets both  
28 of the following:

29 (A) Prior to the commencement date of the declared state  
30 disaster or emergency, as specified in the Governor’s proclamation  
31 of a state of emergency or the President’s declaration of a major  
32 disaster or emergency in this state, was not doing business in this  
33 state as defined in Section 23101.

34 (B) Is doing business in this state as defined in Section 23101  
35 after the commencement date of the declared state disaster or  
36 emergency, as specified in the Governor’s proclamation of a state  
37 of emergency or the President’s declaration of a major disaster  
38 or emergency in this state, upon the request of a registered business  
39 or by a state agency or a local agency, for the purpose of  
40 performing disaster- or emergency-related work.

1 (7) “Registered business” means a business entity that is  
2 registered to do business in this state prior to the commencement  
3 date of the declared state disaster or emergency, as specified in  
4 the Governor’s proclamation of a state of emergency or the  
5 President’s declaration of a major disaster or emergency in this  
6 state.

7 (8) “State agency” means a state agency as defined in Section  
8 8680.8 of the Government Code.

9 SEC. 4. Section 24311 is added to the Revenue and Taxation  
10 Code, to read:

11 24311. (a) For taxable years beginning on and after January  
12 1, 2014, gross income shall not include any amount received by a  
13 qualified person for the performance of disaster- or  
14 emergency-related work in this state that is performed during the  
15 disaster period.

16 (b) For purposes of this section, all of the following shall apply:

17 (1) “Declared state disaster or emergency” means a disaster  
18 or emergency event for which the Governor has proclaimed a state  
19 of emergency or a major disaster or emergency for which the  
20 President of the United States has declared to exist in this state.

21 (2) “Disaster- or emergency-related work” means repairing,  
22 renovating, installing, building, or rendering services or other  
23 business activities that relate to infrastructure that has been  
24 damaged, impaired, or destroyed as a result of a declared state  
25 disaster or emergency.

26 (3) “Disaster period” means the period of time that begins no  
27 later than 10 days following the Governor’s proclamation of a  
28 state of emergency or the President’s declaration of a major  
29 disaster or emergency in this state, whichever occurs first, and  
30 that extends for a period of 60 calendar days following the  
31 termination of the declared disaster or emergency as proclaimed  
32 by the Governor or by concurrent resolution by the Legislature  
33 pursuant to Section 8629 or the President of the United States,  
34 whichever occurs first.

35 (4) “Infrastructure” means property and equipment owned or  
36 used by communication networks, gas and electric distribution  
37 systems, water pipelines, and public roads and bridges, and related  
38 support facilities that service multiple customers or citizens,  
39 including, but not limited to, real and personal property, including

1 buildings, offices, power lines, poles, pipes, structures, and  
2 equipment.

3 (5) “Local agency” means a local agency as defined in Section  
4 8680.2 of the Government Code.

5 (6) “Qualified person” means a corporation that meets all of  
6 the following:

7 (A) Prior to the commencement date of the declared state  
8 disaster or emergency, as specified in the Governor’s proclamation  
9 of a state of emergency or the President’s declaration of a major  
10 disaster or emergency in this state, was not doing business in this  
11 state as defined in Section 23101.

12 (B) Is doing business in this state as defined in Section 23101  
13 after the commencement date of the declared state disaster or  
14 emergency, as specified in the Governor’s proclamation of a state  
15 of emergency or the President’s declaration of a major disaster  
16 or emergency in this state, upon the request of a registered business  
17 or by a state agency or a local agency, for the purpose of  
18 performing disaster- or emergency-related work.

19 (7) “Registered business” means a business entity that is  
20 registered to do business in this state prior to the commencement  
21 date of the declared state disaster or emergency, as specified in  
22 the Governor’s proclamation of a state of emergency or the  
23 President’s declaration of a major disaster or emergency in this  
24 state.

25 (8) “State agency” means a state agency as defined in Section  
26 8680.8 of the Government Code.

27 SEC. 5. Notwithstanding Section 2230 of the Revenue and  
28 Taxation Code, no appropriation is made by this act and the state  
29 shall not reimburse any local agency for any sales and use tax  
30 revenues lost by it under this act.

31 SEC. 6. This act provides for a tax levy within the meaning of  
32 Article IV of the Constitution and shall go into immediate effect.

33 ~~SEC. 2. It is the intent of the Legislature to enact legislation~~  
34 ~~that would facilitate rapid response and aid by out-of-state~~  
35 ~~businesses to state declared disasters by providing that an~~  
36 ~~out-of-state business that conducts operations within the state for~~  
37 ~~purposes of performing work or services related to a declared state~~  
38 ~~disaster or emergency should not be considered to have established~~  
39 ~~a level of presence that would require that business or its~~  
40 ~~out-of-state employees to be subject to any state and local licensing~~



1 or registration requirements or to register, file, and remit state or  
2 local taxes and fees, such as state corporation taxes or personal  
3 income taxes, unemployment insurance, sales and use taxes on  
4 equipment used for performing the work or service, or state or  
5 local occupational licensing fees.

O